

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent 6,353,038

Allan AHO et al.

Serial Number: 09/446,630

Issued: March 5, 2002

For: NOVEL PLASTIC BASED COMPOSITE AND ITS USE

SECOND DECLARATION OF DR. JUKKA TUOMINEN

Commissioner for Patents
P.O. Box 1450
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Sir:

I, Jukka TUOMINEN, hereby declare as follows:

1. I affirm my Declaration of Dr. Jukka Tuominen filed May 4, 2012, the contents of which are incorporated by reference herein, except for my employment history which is updated below.
2. I was employed by Vivoxid Oy, Turku, Finland ("Vivoxid") as Technology Development Director from October 2008 to July, 2012. In this capacity I directed Vivoxid's research and development projects, and was part of Vivoxid's management team, reporting directly to its CEO.
3. I am currently employed as a Principal Scientist by Purac Biomaterials ("Purac"), a Netherlands corporation. On August 3, 2012, Purac acquired substantially all of Vivoxid's assets. The acquisition included key Vivoxid personnel, including myself.

Vivoxid's Management of Its IP Portfolio

4. Vivoxid's small size (always less than 30 employees) precluded us from hiring an IP professional. Instead, Vivoxid relied on our Finnish intellectual property counsel, Turun Patenttitoimisto Oy ("Turun") to protect Vivoxid's inventions and register its trademarks.

5. Vivoxid's researchers conceived numerous inventions. With Turun's assistance, Vivoxid filed patent applications on some of these inventions in various countries. On information and belief, Vivoxid's patent portfolio comprised 15 patent families in 2009, with some families having more than 20 pending applications and issued patents.

6. In my opinion, Vivoxid has always treated its IP portfolio with the care and diligence observed by careful men in relation to their most important business. For example, Vivoxid contracted with Patrafee Oy AB ("Patrafee"), a commercial annuity payment service company, to docket, monitor and pay its annuity and maintenance fee payments using its "standing order" service. Patrafee would periodically send Vivoxid a reminder listing those annuities and maintenance fees which would become due in the next few months. Each of these fees would be paid unless Vivoxid instructed Patrafee not to pay a specific annuity or maintenance fee.

7. Another example of the care that Vivoxid took to prudently manage its IP portfolio was its appointment of a trusted and capable employee to closely supervise the activities of Turun and Patrafee. An important part of this close supervision was to review the significance of a patent family each time an annuity fee became due, to decide whether to maintain the patent or pending application, and to instruct Patrafee

accordingly. Another important responsibility was to direct Turun's prosecution of pending patent applications. In short, Vivoxid actively managed the creation and maintenance of its IP portfolio by exercising close and prudent supervision of Turun and Patrafee.

The Vivoxid/BonAlive Split

8. In December, 2009 Vivoxid split into two companies: Vivoxid and BonAlive Biomaterials Ltd. ("BonAlive"). I assumed responsibility for Vivoxid's IP portfolio at this time because my predecessor, Mr. Lucchesi, transferred to BonAlive.

9. I began to familiarize myself with the details of Vivoxid's IP portfolio. As part of this process I attended a meeting with Mr. Lucchesi and Turun practitioners on January 19, 2010 ("Joint Meeting") to discuss BonAlive's creation, the resulting changes to Vivoxid and how Vivoxid's intellectual property portfolio was to be divided between the two companies. Exhibit 12 is a memorandum which summarizes the Joint Meeting.

10. The third portion of the Joint Meeting focused on the allocation of each Vivoxid patent family between Vivoxid and BonAlive based on their respective business activities, and also whether to maintain or abandon certain of these patent families.

11. We agreed Vivoxid would continue to own the Sulamuovi patent family, and that Vivoxid would evaluate the maintenance of this family. There was no discussion of U.S. Patent 6,353,038 ("the '038 patent") during the Joint Meeting.

12. In my opinion, the Joint Meeting shows Vivoxid exercised due care in the handling of its IP portfolio during the transition of duties and authority from Mr Lucchesi to myself. I met face-to-face with the people most familiar with Vivoxid's IP portfolio -

my predecessor and three of Turun's IP counsel - to review the portfolio in detail. Each Vivoxid patent family was individually addressed, as were its trademarks. The Joint Meeting was held shortly after I assumed responsibility for Vivoxid's IP portfolio.

13. Vivoxid continued to carefully and diligently attend to its IP portfolio after the Joint Meeting. In particular, I supervised Patrafee's payment of annuities and U.S. maintenance fees as they came due. I also attended periodic general patent meetings with Turun to supervise their prosecution of Vivoxid's pending patent applications.

14. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. These statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the '038 patent.

• Signed this 9 day of November, 2012.



Dr. Jukka TUOMINEN